

## **GCSE**

### **Law**

Unit **B144**: Consumer Rights and Responsibilities

General Certificate of Secondary Education

## **Mark Scheme for June 2017**

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This mark scheme is published as an aid to teachers and students, to indicate the requirements of the examination. It shows the basis on which marks were awarded by examiners. It does not indicate the details of the discussions which took place at an examiners' meeting before marking commenced.

All examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes should be read in conjunction with the published question papers and the report on the examination.

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## Annotations

Annotation	Meaning
	Tick
	Cross
<b>BOD</b>	Benefit of doubt
<b>NBOD</b>	Benefit of doubt not given
<b>REP</b>	Repeat
	Irrelevant
	Omission mark
<b>L1</b>	Level 1
<b>L2</b>	Level 2
<b>L3</b>	Level 3
<b>E</b>	Expansion of a point
	Development of point
<b>VG</b>	Vague
<b>NAQ</b>	Not answered question

Question		Answer	Mark	Guidance
1	(a)	<p>Candidates will tick the boxes as follows to obtain each mark:</p> <p>A – True</p> <p>B – False</p> <p>C – False</p>	[3]	<p><b>ASSESSMENT OBJECTIVE 1</b></p> <p>1 mark for each correct tick</p> <p>Multiple entries in one answer – no credit</p> <p><b>[maximum 3 marks]</b></p>
	(b)	<p><b>Candidates will discuss as follows:</b></p> <ul style="list-style-type: none"> <li>Commercial (business) arrangements are <i>presumed</i> to be intended as binding contracts</li> <li>These presumptions can be rebutted in court by producing evidence to the contrary</li> <li>Useful because it prevents businesses from trying to avoid their contractual obligations.</li> </ul> <p>Credit any other relevant response.</p>	[3]	<p><b>ASSESSMENT OBJECTIVE 3</b></p> <p><b>Give credit as follows:</b></p> <p><b>1 mark</b> - for any basic/valid point</p> <p><b>2 marks</b> - for some reasoning/elaboration</p> <p><b>3 marks</b> - for good reasoning/develops a discussion of a relevant issue.</p> <p><b>Using examples attracts some credit</b></p> <p><b>(0 marks)</b> – no response or nothing worthy of credit.</p> <p><b>[maximum 6 marks]</b></p>

Question		Answer	Mark	Guidance
2	(a)	<p><b>Candidates will identify as follows:</b></p> <p>(i) Payment of reasonable amount if no price agreed beforehand</p> <p>(ii) Reasonable care and skill</p> <p>(iii) Carried out in a reasonable time.</p>	[3]	<p><b>ASSESSMENT OBJECTIVE 1</b></p> <p><b>1 mark each for each correct type of implied term identified</b></p> <p>(i) Credit alternative phrasing such as “reasonable cost”</p> <p>(ii) Must have “reasonable skill and care”</p> <p>(iii) Credit alternative phrasing such as “breach of time taken”</p> <p>NB – Accept alternative use of correct section numbers from Supply of Goods &amp; Services Act 1982 – full credit can be given</p> <p>S13 – service must be carried out in a professional manner etc.,</p> <p>S14 – reasonable time</p> <p>S15 – reasonable charge</p> <p>Multiple entries in one answer – no credit</p> <p><b>[maximum 3 marks]</b></p>

Question	Answer	Mark	Guidance
(b)	<p><b>Candidates will explain the following:</b></p> <p>(i)</p> <ul style="list-style-type: none"> <li>• Implied term is breached</li> <li>• Jay has not asked for an estimate for the cost and Gordon has not provided one</li> <li>• The price is far more than what Jay's friend paid, but Gordon's silence has led him to believe that is the price he will pay – he nods as if in agreement</li> <li>• As no price has been agreed Jay should pay a reasonable price and it seems that £7500 is too much. (Credit not having to pay the full amount)</li> </ul> <p>(ii)</p> <ul style="list-style-type: none"> <li>• Implied term is breached</li> <li>• Dimitri should be able to expect that Shelly is competent to do the job as she is an expert</li> <li>• Dimitri is paying for Shelly's services and they have a contract</li> <li>• Shelly should be able to carry out the calculations etc in a professional way and she should get them right. Shelly should be able to use reasonable care and skill to carry out the tasks.</li> </ul> <p>(iii)</p> <ul style="list-style-type: none"> <li>• Implied term is not breached</li> <li>• Frankie has given an estimate of the time the job will take</li> <li>• She should be given some flexibility if she does not know how long the fabric will take to arrive</li> <li>• Nas should expect the work to be completed in a reasonable time.</li> </ul> <p>Credit any other relevant comment.</p>	[9]	<p><b>ASSESSMENT OBJECTIVE 2/3</b></p> <p><b>For each of the three scenarios give credit as follows:</b></p> <p>3 marks for a number of points or good reasoning</p> <p><b>0 marks</b> – no response or no response worthy of credit</p> <p><b>1 mark</b> - identifies if the implied term has/has not been breached</p> <p><b>2 marks</b> - explains why the implied term has/has not been breached</p> <p><b>3 marks</b> - elaborates/good reasoning why the implied term has/has not been breached</p> <p>No credit for remedies</p> <p><b>[maximum 9 marks]</b></p>

Question		Answer	Mark	Guidance
	(c)	<p><b>Candidates will discuss any two of the following:</b></p> <ul style="list-style-type: none"> <li>• If an implied term is inserted a seller is bound even though it does not appear in the contract. This is so even if the seller would prefer it was not included</li> <li>• Implied terms are also conditions. This means that if there is a breach the consumer can get compensation</li> <li>• A consumer can also return the goods and get their money back</li> <li>• Courts have been generous in the way they define implied terms</li> <li>• If goods do not fit their description (s13) the consumer has a remedy. Use of an example. Consequences for the seller in terms of standards</li> <li>• If goods are not of satisfactory quality (s14(2)) the consumer has a remedy. Use of an example. Consequences for the seller in terms of standards</li> <li>• If goods are not fit for purpose (s14(3)) the consumer has a remedy. Use of an example. Consequences for the seller in terms of standards</li> </ul> <p>Any other relevant comment.</p>	[6]	<p><b>ASSESSMENT OBJECTIVE 3</b></p> <p><b>Credit should be given for both breadth and depth</b></p> <p><b>Candidates will score as follows:</b></p> <p><b>Level 3 (5-6 marks)</b> - develops a discussion of a relevant issue. The response is well organised, structured, with few errors in grammar, punctuation and spelling.</p> <p><b>Level 2 (3-4 marks)</b> - identifies a relevant issue with some elaboration. The response is adequately organised, structured and with some errors of spelling, punctuation and grammar.</p> <p><b>Level 1 (1-2 marks)</b> - identifies a relevant issue or makes any basic/valid point. The response lacks organisation, structure and accuracy of spelling, punctuation and grammar.</p> <p><b>(0 marks)</b> – no response or nothing worthy of credit.</p> <p><b>Using examples attracts some credit</b></p> <p><b>Credit can also be given for remedies here</b></p> <p><b>NB – Accept alternative use of correct section numbers from Sale of Goods Act 1979</b></p> <p><b>[maximum 6 marks]</b></p>

Question		Answer	Mark	Guidance
3	(a)	<p><b>Candidates will insert from the list as follows:</b></p> <ul style="list-style-type: none"> <li>• Term</li> <li>• Parliament</li> <li>• Regulations</li> </ul>	[3]	<p><b>ASSESSMENT OBJECTIVE 1</b></p> <p>1 mark for each word correctly identified</p> <p><b>[maximum 3 marks]</b></p>
	(b)	<p><b>Candidates will identify the following:</b></p> <ul style="list-style-type: none"> <li>• The buyer is not buying in the course of a business</li> <li>• The seller is selling in the course of a business</li> <li>• The goods are of a type and quality associated with a consumer purchase.</li> </ul>	[3]	<p><b>ASSESSMENT OBJECTIVE 1</b></p> <p>1 mark each for each correct answer</p> <p><b>[maximum 3 marks]</b></p>
	(c)	<p><b>Candidates will explain as follows:</b></p> <ul style="list-style-type: none"> <li>• The ticket does not contain the actual exemption clause as it is only a receipt</li> <li>• The clause was written in tiny writing and/or was held in the office</li> <li>• The clause has not sufficiently been brought to Alfie's attention at the time when the contract was formed at the barrier</li> <li>• Therefore the condition is not incorporated into the contract.</li> </ul> <p>Credit any other relevant response.</p>	[3]	<p><b>ASSESSMENT OBJECTIVE 2</b></p> <p>For each way discussed give credit as follows:</p> <p><b>3 marks</b> for good reasoning</p> <p><b>2 marks</b> for some reasoning</p> <p><b>1 mark</b> for a basic point</p> <p><b>0 marks</b> – no response or no response worthy of credit</p> <p><b>[maximum 3 marks]</b></p>

Question	Answer	Mark	Guidance						
(d)	<p>Candidates will identify up to <u>three</u> of the following:</p> <ul style="list-style-type: none"> <li>• No exclusion of liability for death or personal injury</li> <li>• No exclusion of liability by reference to the terms of a guarantee in respect of defects which have been caused by negligence in the manufacture or distribution of the goods</li> <li>• No exclusion of liability for breaches of the implied conditions under the <b>Sale of Goods Act</b>.</li> <li>• No exclusion of liability for breaches of the implied conditions under <b>Supply of Goods and Services Act</b>.</li> </ul> <p>Credit any other relevant response.</p>	[3]	<p><b>ASSESSMENT OBJECTIVE 1</b></p> <p>1 mark each for each correct answer</p> <p>1 mark only for exclusion of liability for death/personal injury</p> <p><b>[maximum 3 marks]</b></p>						
(e)	<p>Candidates will insert Contract or Negligence as follows:</p> <table border="1" style="margin-left: 40px;"> <tr><td>Contract</td></tr> <tr><td>Negligence</td></tr> <tr><td>Negligence</td></tr> <tr><td>Contract</td></tr> <tr><td>Negligence</td></tr> <tr><td>Negligence</td></tr> </table>	Contract	Negligence	Negligence	Contract	Negligence	Negligence	[6]	<p><b>ASSESSMENT OBJECTIVE 2</b></p> <p>1 mark for each correct identification</p> <p>Multiple entries in one answer – no credit</p> <p><b>[maximum 6 marks]</b></p>
Contract									
Negligence									
Negligence									
Contract									
Negligence									
Negligence									

Question		Answer	Mark	Guidance
4	(a)	<p><b>Candidates will insert from the list as follows:</b></p> <ul style="list-style-type: none"> <li>• Remedies</li> <li>• Warranty</li> <li>• Condition</li> </ul>	[3]	<p><b>ASSESSMENT OBJECTIVE 1</b></p> <p>1 mark for each word correctly identified</p> <p><b>[maximum 3 marks]</b></p>
	(b)	<p><b>Candidates will answer as follows:</b></p> <p>(i) Giada will be able to make a claim. She followed the instructions when she cleaned the handbag. The cleaner is not suitable for its purpose.</p> <p>(ii) Tiffany will not be able to make a claim. The box stated it was not suitable for anyone under the age of 18. Although Tiffany thinks her daughter is old enough she should have followed the instructions.</p> <p>(iii) Georgio will not be able to make a claim. Because of the way he used the washing machine. The product is one which is within the range of normal uses. He should have been more careful.</p> <p>Credit any other relevant response.</p>	[6]	<p><b>ASSESSMENT OBJECTIVE 2</b></p> <p>1 mark for each correct explanation as to whether there will be a claim and 1 mark for the reasoning</p> <p><b>[maximum 6 marks]</b></p>

Question	Answer	Mark	Guidance
(c) *	<p><b>Candidates will identify any ONE limitation of the following:</b></p> <p>However the Act is also not perfect because of the following limitations:</p> <ul style="list-style-type: none"> <li>• Not all products, defect or damage are covered by the Act which can mean that consumers are not always protected</li> <li>• Consumers only have a limited time frame in which to bring an action which makes it hard for them to succeed</li> <li>• The Act is supposed to provide strict liability.</li> <li>• There are so many defences that it can be very difficult for a claimant to succeed</li> <li>• Although the Act is supposed to enable a claim to be made without needing to prove fault in reality what the consumer has to prove is much the same as in negligence and so it is still hard to make a successful claim</li> <li>• Goods with a value of less than £275 are not covered</li> <li>• The Act has no applicability to business property</li> <li>• There can be no claim for damage of the defective product itself as it is considered to be pure economic loss</li> <li>• Any other relevant limitation.</li> </ul> <p>Credit any other relevant response.</p> <p><b>Candidates will identify any TWO benefits of the following:</b></p>	[9]	<p><b>ASSESSMENT OBJECTIVE 3</b></p> <p><b>Credit should be given for both breadth and depth</b></p> <p><b>Candidates will score as follows:</b></p> <p><b>Level 3 (7–9 marks)</b> - develops a discussion of a relevant issue. The response is well organised, structured, with few errors in grammar, punctuation and spelling.</p> <p><b>Level 2 (4–6 marks)</b> - identifies a relevant issue with some elaboration. The response is adequately organised, structured and with some errors of spelling, punctuation and grammar.</p> <p><b>Level 1 (1–3 marks)</b> - identifies a relevant issue or makes any valid point. The response lacks organisation, structure and accuracy of spelling, punctuation and grammar.</p> <p>(0 marks) – no response or nothing worthy of credit.</p> <p><b>Using examples attracts some credit</b></p> <p><b>DO NOT CREDIT</b> - too many defences, making it difficult for a claimant to succeed – as it is in the question stem</p> <p><b>[maximum 9 marks]</b></p>

Question	Answer	Mark	Guidance
	<p>The Act has improved the protection of consumers in a number of ways:</p> <ul style="list-style-type: none"> <li>• Producers have to take more care and need appropriate quality control systems</li> <li>• There is also more likelihood now of product recall when a common defect is discovered</li> <li>• Prohibiting the manufacture and supply of unsafe good</li> <li>• Making the manufacturer or seller of a defective product responsible for damage it causes</li> <li>• It is also means that the consumer has more chance of getting a remedy because he/she has a greater range of potential defendants from which to choose.</li> </ul> <p>Credit any other relevant response.</p>		

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